

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE
MIDDLE DISTRICT OF ALABAMA, NORTHERN DIVISION

UNITED STATES OF AMERICA)	
)	CRIMINAL ACTION NO.
v.)	2:17cr38-MHT
)	(WO)
EUNISES LLORCA-MENESES)	

OPINION AND ORDER

This cause is before the court on defendant Eunises Llorca-Meneses's motion to continue trial. For the reasons set forth below, the court finds that jury selection and trial, now set for December 3, 2018, should be continued pursuant to 18 U.S.C. § 3161(h)(7) to February 4, 2019.

While the granting of a continuance is left to the discretion of the trial judge, see *United States v. Stitzer*, 785 F.2d 1506, 1516 (11th Cir. 1986), the court is limited by the requirements of the Speedy Trial Act, 18 U.S.C. § 3161. The Act provides in part:

"In any case in which a plea of not guilty is entered, the trial of a defendant charged in an information or indictment with the commission of an

offense shall commence within seventy days from the filing date (and making public) of the information or indictment, or from the date the defendant has appeared before a judicial officer of the court in which such charge is pending, whichever date last occurs."

§ 3161(c)(1). The Act excludes from the 70-day period any continuance based on "findings that the ends of justice served by taking such action outweigh the best interest of the public and the defendant in a speedy trial." § 3161(h)(7)(A). In granting such a continuance, the court may consider, among other factors, whether the failure to grant the continuance "would be likely to ... result in a miscarriage of justice," § 3161(h)(7)(B)(i), or "would deny counsel for the defendant ... reasonable time necessary for effective preparation, taking into account the exercise of due diligence." § 3161(h)(7)(B)(iv).

The court concludes that, in this case, the ends of justice served by granting a continuance outweigh the interest of the public and Llorca-Meneses in a speedy trial. The government has made a plea offer that could

resolve the case without a trial. Defense counsel represents that, due to Llorca-Meneses's limited English language ability and the absence of her husband--who had served as her translator and driver--from the country, he needs additional time to arrange for a discussion with Llorca-Meneses about the plea offer from the government. As the court only recently issued its opinion granting a new trial and setting this case for retrial, the court sees no evidence of a lack of diligence on defense counsel's part at this time, and the government has orally informed the court that it does not object to a continuance. In addition, counsel has another trial and another hearing set in courts in different cities on the same day as this trial. In sum, the court concludes that a continuance is warranted to enable Llorca-Meneses's counsel sufficient time to arrange for a careful discussion of the pending plea offer with Llorca-Meneses.

Accordingly, it is ORDERED as follows:

(1) Defendant Eunises Llorca-Meneses's motion to continue (doc. no. 160) is granted.

(2) The jury selection and trial, now set for December 3, 2018, are continued to February 4, 2019, at 10:00 a.m. in Courtroom 2FMJ of the Frank M. Johnson Jr. United States Courthouse Complex, One Church Street, Montgomery, Alabama.

DONE, this the 26th day of November, 2018.

/s/ Myron H. Thompson
UNITED STATES DISTRICT JUDGE